IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SECOND DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 24303 of 1995

Between:

N.Jayarami Reddy S/o N.C.Venkata Subba Reddy,

Aged about 34 years, Junior Assistant,
Sri Venkateswara Sanskrit High School, Nallangadu,
Chittoor District.

..... PETITIONER

AND

1. The Director of School Education, A.P., Hyderabad.
2. The District Educational Officer, Chittoor.
3. The Correspondent, Sri Venkateswara Sanskrit High School,

Nallangadu, Chittoor District.
4. Sri Venkateswara Sanskrit High School (S.V.S. High School),
Nallangadu, Chittoor District rep. by its School Committee.
(R4 is impleaded as per Court Order dated 26-6-96

In W.P.M.P.No.14725/96.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ, order or direction in the nature of Writ of Mandamus declaring the action of the respondents in not regularising the services of the petitioner in the category of Junior Assistant with effect from 17.12.1984, as illegal, improper, unjust and contrary to law and also declare that non-payment of arrears of salary for the period from 01.01.1989 to 31.10.1989 as illegal and further declare that the petitioner is entitled for the Revised Pay Scales revised from time to time with all consequential benefits.

Counsel for the Petitioner: MR.P.GANGAIAH NAIDU

Counsel for the Respondent Nos.1&2: Govt. Pleader for School Education.

Counsel for the Respondent Nos.3&4: MR.M.R.K.CHOWDARY

The Court made the following :

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THE HONOURABLE DR. JUSTICE G.YETHIRAJULU

Writ Petition No.24303 of 1995

ORDER:

The petitioner was appointed as a Record Assistant in the fourth respondent school in an unaided vacancy. He was terminated from service on 20.12.1998 on the ground that there is no sufficient work. The petitioner challenged the said order of termination through Writ Petition No.9728 of 1989. An interim direction was given by this Court to continue the petitioner in service. During pendency of the writ petition, the post of the petitioner was made as a grant-in-aid post with effect from 01.11.1989. Subsequently, the said writ petition was allowed by this Court through the Order dated 04.02.1991 setting aside the order of termination. The petitioner was out of service for the period from 01.01.1989 to 30.10.1989 since there was no direction from the Court on the concerned authorities regarding the treatment of the period with monetary benefits. The petitioner filed Writ Petition No.8992 of 1992 to treat the said period as continuous service and to pay the monetary benefits to him for the said period. The High Court while disposing of the said Writ Petition on 28.07.1992, directed the concerned authorities to pass appropriate orders. Accordingly, the Director of School Education passed an order on 25.04.1994 directing the second respondent herein to pass the orders of approval of appointment in favour of the petitioner from the date of appointment i.e. 17.12.1989 and to absorb him into grant-in-aid post with effect from 01.11.1989. The Director further observed that the petitioner is eligible for payment of increments only after the period during which he was out of service is condoned (regularized) by the competent authority. He was extended the benefit of Revised Pay Scales of 1986 after regularisation of the services. The second respondent was also directed to see that the salary is paid to the petitioner by the third respondent for the period from 01.11.1989 to 31.10.1989.

2. The grievance of the petitioner is that though the second respondent made arrangement for monetary benefits, he did not pass any orders regarding the regularisation of the period during which the petitioner was out of service. Subsequently, the petitioner made several representations on 24.04.1993, 06.01.1994, 29.08.1994 and 16.09.1995 requesting to regularise the service of the period in question for the purpose of continuity of service. Since the second respondent did not pass any orders on the representation, the petitioner approached this Court through this writ petition declaring that the action of the respondents in not regularising the services of the petitioner in the category of Junior Assistant with effect from 17.12.1984 as illegal, improper and unjust.

3. Though the petitioner sought for a direction for payment of arrears of salary and the benefit of Revised Pay Scales, since he got those benefits during the pendency of the writ petition, he did not press those prayers. So, the only question that remains to be considered is whether the petitioner is entitled to be regularized during the period in question i.e. from 01.01.1989 to 31.10.1989. The petitioner was relieved from service with effect from 31.12.1988 in pursuance of the termination order issued by the third respondent. This Court in the writ petition held that the termination order is illegal, therefore, it was set aside. But, since the Court did not pass any order regarding the treatment of the period during which the petitioner was out of service, the petitioner approached this Court through this writ petition. The first respondent in the Order dated 25.04.1994 mentioned that the payment of salary and increments for the termination period will be considered after regularisation of the said period by the competent authority. The second respondent is the competent authority. He slept over the matter for several years without passing any order regarding the regularisation of the service, having extended the benefit of the arrears of salary and the benefit of Revised Pay Scales. The District Educational Officer out to have passed an order regarding the regularisation of the service of the petitioner since the petitioner is extended the monetary benefit for the said period in pursuance of the order of this Court in the earlier writ petition, holding that the termination is illegal. The petitioner is entitled to the benefit of continuity of service for the period of termination. The second respondent is, therefore, directed to pass orders, treating the period of the termination i.e. from 01.01.1989 to 31.10.1989 as continuous service and extend all the consequential benefits, except the monetary benefits, which the petitioner has already received for the said period.

4. The writ petition is accordingly allowed. No order as to costs.

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Dr.G.YETHIRAJULU, J

Dated: 22nd September, 2004.

Cs

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Wednesday, the Twenty Second day of Two Thousand and four.

ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The Director of School Education, A.P., Hyderabad.
2. The District Educational Officer, Chittoor.
3. The Correspondent, Sri Venkateswara Sanskrit High School,

Nallangadu, Chittoor District.

4. School Committee, Sri Venkateswara Sanskrit High School

(S.V.S. High School), Nallangadu, Chittoor District.

5. Two C.Cs. to the Government Pleader for School Education,

High Court Buildings, Hyderabad. (O.U.T.).

6. Two C.D. copies.